HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 16066 OF 2007

Between:

Sai Rinda Consultancy,
1-7-203/3 & 4, Sri Manitheja Towers,
Advocates Colony, Balasamudram,
Hanamkonda, Warangal District,
Rep., by its Proprietor
Mr. Vennam Srikanth Reddy

…Petitioner

AND

Warangal Municipal Corporation,
Warangal, Warangal District, rep., by its
Commissioner

...Respondent

: O R D E R :

Counsel for the petitioner : Shri Nandigam Krishna Rao
Counsel for the respondent : Shri Joi Rathan Raj for Shri V. Durga Nageswara Rao

August 7, 2007

Per G.S.SINGHVI, CJ

The petitioner who is occupying shops constructed in the stilts of premises bearing door Nos. 1-7-1203/3 and 1-7-1203/4, Sri Manitheja Towers, Advocates Colony, Balasamudram, Hanamkonda, Warangal District has prayed for issue of a writ of prohibition to the respondent not to act upon demolition notice dated 18-7-2007 issued under Section 636 of the Hyderabad Municipal Corporation Act, 1955 read with Section 14 of the Andhra Pradesh Municipal Corporations Act, 1994.

In the affidavit filed by the petitioner's Proprietor, Sri Vennam Srikanth Reddy, it has been averred that the premises in which the firm is operating is not meant for parking and that there is no traffic congestion in the area.

On the last date of hearing i.e., 27-7-2007, Shri Nandigam Krishna Rao, learned counsel for the petitioner gave out that his client is not averse to the demolition of the illegal construction made by the owner, but wants some time to shift its business. This was opposed by the learned Standing Counsel for the respondent. Therefore, instead of accepting the request of the learned counsel for the petitioner, the Court adjourned the case for today with a direction to Commissioner, Warangal Municipal Corporation to file his own affidavit and furnish the following details:

"1) The age/time of the disputed construction.

2) Who was the Commissioner of the Municipal Corporation at the time of raising of the disputed construction.

3) Why action was not taken to stop the illegal

construction.

4) Why notice under Section 452 of the 1955 Act was not given as a precurser to notice under Section 636 of the Act."

In compliance of the aforementioned order, Shri K. Venkata Rami Reddy, Commissioner, Warangal Municipal Corporation has filed affidavit dated 4-8-2007. We have gone through the affidavit and find that the same is laconic on material issues. The officer concerned has not bothered to answer the queries made by the Court. Although it is difficult for the Court to record a conclusive finding that the present Commissioner of the Municipal Corporation has been negligent in performing his duty, we do not have any hesitation to make an observation that the officers of the Municipal Corporation who were entrusted with the task of ensuring that no illegal construction is allowed to be raised within the municipal limits, miserably failed to perform their statutory duties and indirectly encouraged the owner of the premises to raise construction in violation of the sanctioned plan.

We would have dealt with the issue of negligence of the municipal staff and officers at greater length, but do not consider it necessary to do so because learned counsel for the respondent says that he will have no objection if two and half months time is allowed to the petitioner to vacate the shops in question.

In view of the above, the writ petition is disposed of with the following directions:

1) For a period of two and half months counted from today, notice dated 18-7-2007 shall not be given effect to.

2) The petitioner shall vacate the disputed premises latest by 31-10-2007.

3) Within next seven days, the concerned authority of the

Warangal Municipal Corporation shall give effect to notice dated 18-7-2007.

As a sequel to disposal of the writ petition, WPMP No. 20412 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

August 7, 2007

ks